

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

NADIST, LLC,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:06CV969 CDP
)	
THE DOE RUN RESOURCES)	
CORP., et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before me on my review of the file. First, I will allow the deposit of funds sought by Doe Run, as Rule 67, Fed. R. Civ. P. authorizes a deposit even where, as here, the amount is disputed: “If any part of the relief sought is a money judgment . . . a party . . . may deposit with the court all or part of the money . . .”

I will also require the Doe Run defendants to show cause by June 27, 2008, why Nadist’s motion to compel should not be granted. According to this motion, Doe Run has refused without excuse to comply with my Orders regarding the production of discovery materials. I have also reviewed the Memorandum for Court regarding the parties’ continued stalled attempts to mediate this case. As of now, mediation is set to be completed on September 1, 2008, and I will not extend

the deadline. **The parties shall select a mediator by July 7, 2008** or I will select one for them.

Finally, the proposed intervenor shall file a reply brief in support of its motion to intervene by July 7, 2008. In addition to addressing the other arguments raised by Doe Run in opposition to the motion to intervene, the reply brief shall also explain why the State of Missouri waited two years before moving to intervene in this action, even though it had notice of this lawsuit before it was filed.

Accordingly,

IT IS HEREBY ORDERED that the motion to deposit funds into the Court [#111] is granted and defendant Doe Run shall deposit the sum of \$1,757,027 into the registry of the Court as requested. The Clerk of Court shall deposit this in an interest-bearing fund.

IT IS FURTHER ORDERED that **Doe Run shall show cause by June 27, 2008, why Nadist's motion to compel [#115] should not be granted in its entirety, and why sanctions should not issue against Doe Run and/or its attorneys for Doe Run's continued to failure to abide by the Court's March 12, 2008 and April 3, 2008 Orders regarding the production of discovery materials. No extensions of time will be granted.**

IT IS FURTHER ORDERED that the parties shall select a mediator in accordance with my February 19, 2008 and March 12, 2008 Orders by July 7, 2008.

IT IS FURTHER ORDERED that proposed intervenor State of Missouri shall file its reply brief in support of its motion to intervene by July 7, 2008. No extensions of time will be granted.

A handwritten signature in black ink, reading "Catherine D. Perry", is positioned above a horizontal line.

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 24th day of June, 2008.